

## § 10010.10

consultation with other Federal agencies, and State, local or Indian tribal governments required prior to making the application.

### § 10010.10 Whether to prepare an EIS.

(a) Categorical exclusions (CX) (40 CFR 1508.4).

(1) The following criteria will be used to determine categories of actions to be excluded from preparation of an EA or EIS:

(i) Analysis or experience shows that the action or group of actions would have no significant effect on the quality of the human environment; and

(ii) The action or group of actions would not involve unresolved conflicts concerning alternative uses of available resources.

(2) Based on the criteria in paragraph (a)(1) of this section, the categories of actions listed in subpart G of this part are excluded from the preparation of an EA or EIS.

(3) The exceptions listed in subpart G of this part apply to individual actions subject to CX. Appropriate environmental documents must be prepared for any actions involving these exceptions.

(4) Notwithstanding the criteria, exclusions, and exceptions in paragraphs (a)(1) through (3), extraordinary circumstances may dictate or a responsible Commission official may decide to prepare an environmental document to assist with decision-making.

(b) Environmental Assessment (EA) (40 CFR 1508.9). Procedures regarding preparation of an EA are addressed in subpart C of this part.

(c) Finding of No Significant Impact (FONSI) (40 CFR 1508.13). A FONSI will be prepared as a separate document based upon analysis of an EA and a determination that the proposed action will have no significant environmental impact.

(d) Notice of Intent (NOI) (40 CFR 1508.22). A NOI will be prepared as soon as practicable after a decision to prepare an environmental impact statement and shall be published in the FEDERAL REGISTER and made available to the affected public in accordance with 40 CFR 1506.6. Publication of a NOI may be delayed if there is proposed to be more than three (3) months between

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the decision to prepare an environmental impact statement and the time preparation is actually initiated. The Commission will periodically publish a consolidated list of these notices in the FEDERAL REGISTER.

(e) Environmental Impact Statement (EIS) (40 CFR 1508.11). Decisions/actions which would normally require the preparation of an EIS are identified in subpart G of this part. Procedures regarding preparation of an EIS are addressed in subpart D of this part.

### § 10010.11 Lead agencies.

(a) The Commission will serve as lead, or, as appropriate, joint-lead agency for any NEPA procedure that is sponsored by or otherwise significantly involves the Commission.

(b) The Commission will inform the Office of the Solicitor of any agreements to assume lead or joint-lead agency status.

(c) A non-Federal agency may be designated as a joint lead agency if it has a duty to comply with a local or State environmental review requirement. Any non-Federal agency may be a cooperating agency by agreement. The Commission will consult with the Office of the Solicitor in cases where such non-Federal agencies are also applicants before the Commission to determine joint-lead agency responsibilities.

### § 10010.12 Cooperating agencies.

(a) The Commission will adhere to CEQ directives both in the designation of cooperating agencies for Commission sponsored NEPA procedures and in seeking designation as a cooperating agency for procedures sponsored by others. Any non-Federal agency may be a cooperating agency in Commission NEPA proceedings by agreement. The Commission will consult with the Office of the Solicitor in cases where such non-Federal agencies are also applicants before the Commission to determine cooperating agency responsibilities.

(b) The Commission will inform the Office of the Solicitor of any agreements to assume cooperating agency status or any declinations pursuant to 40 CFR 1501.6 (c).